

**DUMONT JOINT LAND USE BOARD
MINUTES FOR FEBRUARY 25, 2014 MEETING**

MINUTES

Flag Salute

SESSION: This is a meeting of the Joint Land Use Board, of the Borough of Dumont, held in the Council Chambers.

**February 25, 2014
7:30 PM**

SUNSHINE LAW: This meeting is a regularly scheduled meeting of the Joint Land Use Board, of The Borough of Dumont, held in the Council Chambers on February 25, 2014. The date, time, and location were established by the resolution of the Board. A copy of the resolution was forwarded to *The Record*, the *Ridgewood News*, and posted in the Borough Hall of the Borough of Dumont. All notice requirements of the Open Public Meetings Act of the State of New Jersey have been fulfilled.

ROLL CALL:

Thomas Trank	P	Michael Affrunti	P	Councilman Matthew Hayes	P
Michael Worner	P	Timothy Hickey	P	Elmer Pacia	P
William Goodman	A	Barbara Chen	P	Michael Cremin Alt # 1	P
Alfred Moriarty Alt # 2	P	Janet Masio Alt # 3	P	Mynor Frank Lopez Alt # 4	P
Chairman William Bochicchio	P				

Others: Board Attorney – Mark D. Madaio, Esq.: Mark Madaio- P
Board Engineer – Boswell Engineering: James Fordham- NA
Board Planner – Maser Consulting: Darlene Green- P
Board Clerk - Rosalia Bob- P

BUSINESS: Review and Approval of Business Professional Invoices

Chairman William Bochicchio states that he will go to the Building Department to sign off on the items.

BUSINESS: Approval of November 2013, December Special Meeting 2013 and January 2014 Minutes

November Minutes

Motion: Thomas Trank

2nd by: Michael Affrunti

ROLL CALL:

Thomas Trank	Y	Michael Affrunti	Y	Councilman Matthew Hayes	Y
Michael Worner	Y	Timothy Hickey	A	Elmer Pacia	Y
William Goodman	NA	Barbara Chen	A	Michael Cremin Alt # 1	Y
Alfred Moriarty Alt # 2	NA	Janet Masio Alt # 3	NA	Mynor Frank Lopez Alt # 4	NA
Chairman William Bochicchio	Y				

December Minutes

Motion: Michael Affrunti

2nd by: Michael Worner**ROLL CALL:**

Thomas Trank	A	Michael Affrunti	Y	Councilman Matthew Hayes	Y
Michael Worner	Y	Timothy Hickey	Y	Elmer Pacia	Y
William Goodman	NA	Barbara Chen	Y	Michael Cremin Alt # 1	Y
Alfred Moriarty Alt # 2	NA	Janet Masio Alt # 3	NA	Mynor Frank Lopez Alt # 4	NA
Chairman William Bochicchio	Y				

January Minutes

Motion: Michael Affrunti

2nd by: Thomas Trank**ROLL CALL:**

Thomas Trank	Y	Michael Affrunti	Y	Councilman Matthew Hayes	A
Michael Worner	A	Timothy Hickey	Y	Elmer Pacia	Y
William Goodman	NA	Barbara Chen	Y	Michael Cremin Alt # 1	Y
Alfred Moriarty Alt # 2	NA	Janet Masio Alt # 3	NA	Mynor Frank Lopez Alt # 4	NA
Chairman William Bochicchio	Y				

RESOLUTION: 14-01 Veterans Plaza/Roosevelt Avenue PSE&G

The board attorney, Mark Madaio gives a summation of the application. He states that PSE & G came before the board to amend their site plan. He details that the electrical, wiring and building equipment were specked out and that the building needed to be larger to accommodate. He further details for the board that the staircase is now enclosed, PSE & G cleaned up the area and they also lowered the height of the antenna on the top of the building. He states that they made the site more appealing. Mark Madaio explains that the site plan amendment was approved by the board. Chairman William Bochicchio

discusses the sidewalk with the board. He states that he spoke to the Board of Ed president and that the Board of Ed will be moving the fence so PSE & G will be installing a sidewalk in that area. He further states that the façade will have a beautification treatment done to it.

Chairman William Bochicchio calls for a motion from the board

Motion: Michael Affrunti
2nd by: Timothy Hickey

ROLL CALL:

Thomas Trank	Y	Michael Affrunti	Y	Councilman Matthew Hayes	A
Michael Worner	A	Timothy Hickey	Y	Elmer Pacia	Y
William Goodman	NA	Barbara Chen	Y	Michael Cremin Alt # 1	Y
Alfred Moriarty Alt # 2	NA	Janet Masio Alt # 3	NA	Mynor Frank Lopez Alt # 4	NA
Chairman William Bochicchio	Y				

RESOLUTION: 14-02 84 Lafayette Avenue Dean Builders, Inc.

Mark Madaio gives a summation of the application for the subdivision. He explains that it's an older house on a slightly undersize lot which is a 6,400 square-foot. He states that the applicant wanted to subdivide into two lots, which would be 40 x 80 in dimension and be 3,200 square-feet each. He further states to the board that there were extensive variances required and that the applicant tried detailing that there were other undersize lots existing in the area yet these were in fact much older lots.

Chairman William Bochicchio calls of for a motion from the board

Motion: Frank Lopez
2nd by: Michael Affrunti

ROLL CALL:

Thomas Trank	Y	Michael Affrunti	A	Councilman Matthew Hayes	A
Michael Worner	A	Timothy Hickey	Y	Elmer Pacia	Y
William Goodman	NA	Barbara Chen	Y	Michael Cremin Alt # 1	Y
Alfred Moriarty Alt # 2	NA	Janet Masio Alt # 3	NA	Mynor Frank Lopez Alt # 4	NA
Chairman William Bochicchio	Y				

- Mark Madaio states to the board that there is a big audience with several residents that are wishing to speak. He feels that they should afford the residence a time to be heard and asks the Chairman to open the meeting to the public. Chairman

William Bochicchio states that before opening to the public, he first would like to give a statement. He explains to the board and the residents that with pending litigation anything said will be admissible in court and can additionally be used against the Borough. He states that there has never been any application that has come before the board or the building department. He explains that the contract purchaser instead of coming before the board decided to go to court instead. He states that the board filed a COAH application to the Council of Affordable Housing which is being reviewed by the state. He further explains that everyone on the board is a volunteer and wants the best for Dumont. He states to the board that no one is permitted to answer questions that could potentially affect the litigation against the Borough. Timothy Hickey stresses to the residence that no application was ever filed to the Joint Land Use Board.

Chairman William Bochicchio calls for a motion to open the meeting to the public.

Motion: Timothy Hickey
2nd by: Michael Worner

Leo Velasquez from Roxbury Road asks what the board will be voting on tonight. Mark Madaio states that the board cannot vote in close session. He states that he does not understand the large attendance tonight because the board cannot discuss most issues. Mark Madaio states that there is no application before the board so the board cannot discuss any potential project and also the board cannot discuss the lawsuit pending against the Borough.

Michael DiCristofaro at 1 Poplar Avenue asks what the lawsuit is about and what the DeAngelo's property zone for. Mark Madaio states that it's a builder's remedy lawsuit. He explains that the Borough is not in compliance with COAH so that results in the zoning laws of the Borough not applying. He states that the lawsuit is about having the courts decide what would be done on that property since the Borough no longer has zoning control. Mark Madaio explains that the property is zoned public parks.

Brendan Keating at 64 Wilkins Drive states that round three in COAH is still up in the air in the courts. He explains that the Borough of New Milford's Zoning Board denied the New Milford project, so asks how a judge can rule on it. He states that the resolution from the board for COAH details the area only allowing 12 units per acre which seems unrealistic to a builder and those 144 to 200 units per acre proposed by the developer is really unrealistic to the Borough.

Sandy Fernandez at 199 Summit Road asked about the rushing to file. She states that the COAH professionals indicated that they would stave off the builder's remedy lawsuit by doing this. She cites another lawsuit where a judge indicated that a builder's remedy is a last resort. She states that the Borough could file a lawsuit in return against them. Mark Madaio explains that the Borough will

answer of course in court and that's the process. He states that we can't stop someone from filing a lawsuit and that any legal matters involving the Borough are discussed in closed session.

Cindy Bickel at 100 Juniper Street asked what the next step of the process is. She asks if a judge rules or can people fight it. Mark Madaio states that the first step is the Borough needs to file an answer to the courts.

John Monelli at 30 Wilkens Drive asked if everything can be public record. He then asked when anything is open to the public, can it be placed on the website for public view. Mark Madaio and Chairman William Bochicchio discuss the options for placing open information on the borough's website.

Cathy Doherty at 110 Roxbury Road stated that she thought the filing of a COAH plan would protect the Borough against a lawsuit. She asked if there were any alternative solutions. Mark Madaio states that the Borough needs to defend the housing element it adopted with the process of adopting ordinances to support it. Chairman William Bochicchio states that there were 6 plans offered and the board chose the best fit for the Borough.

Carl Manna at Harding Avenue asked what are the general results of builder's remedy lawsuits and where can we get that information. Mark Madaio states that lawsuits are judged on a case by case basis and that there is no summary table that lists every builder's remedy lawsuit. He explains that the facts are different in every case.

Tim Galligan at 18 Dakota Avenue asks about the number of municipalities that are COAH compliant. Mark Madaio states that he doesn't know the exact numbers and that anyone can go the COAH website to check the numbers of municipalities.

Louis Velasquez at Roxbury Road asked if there was a plan and was it put in place to stave off a lawsuit. Mark Madaio states that the Borough amended their Housing Element, they submitted a COAH plan and now the Borough would have to implement ordinances to support that plan.

John Sansone at 1 Beacon Street asked how come the Borough is not COAH compliant with all the buildings that exist in town. Tim Hickey states there are different types of COAH housing and that the plan had to consist of any undeveloped pieces of property if they too become available.

Brendan Keating at 64 Wilkens Drive explains that the plan presented would yield up to 84 units if it became available and that the Borough needs to provide ordinances to support that. He explains that Dumont has enough affordable housing, but it's not the right types of housing.

Chairman William Bochicchio calls for a motion to end the open session.

Motion: Michael Affrunti
2nd by: Frank Lopez

Chairman William Bochicchio calls for a motion to go into closed session.

Motion: Barbara Chen
2nd by: Frank Lopez.

BUSINESS: Closed Session Discussion on Pending Litigation

Minutes respectfully submitted by:
Rosalia Bob
Joint Land Use Board Clerk